

Year: 2023



Anti-Fraud, Anti Bribery & Loss Management Policy

Loy Kandahar Reconstruction Organization
(LKRO)

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POLICY GUIDE ON MANGEEEMNT OF FINANCIAL MAL-PRACTICES (ANTI-FRAUD, ANTI-BRIBERY, ANTI-CORRUPTION AND LOSS MANAGEMENT)

1. Introduction

LKRO NGO is committed to the highest possible standards of openness, transparency and accountability in all its affairs. We wish to promote a culture of honesty and opposition to fraud, corruption or bribery in all its forms.

The organisation operates in Afghanistan. At the time of writing this policy, LKRO has physical presence and works in Kabul, 20 provinces and their relevant districts of Afghanistan. In common with many large and decentralized organisations, the size, spread and nature of our operations puts us at risk of loss due to financial irregularities and mal-practices.

2. Purpose

Bribery and corruption are found in all countries. They hurt the poor disproportionately, diverting resources intended for development and humanitarian assistance and increasing the costs of basic public services. They undermine economic growth and are a barrier to poverty alleviation and good governance. Often, bribery and corruption can aggravate conflict and insecurity.

There is a risk that corruption will prevent NGOs achieving their objectives, especially when they are working in countries where there are high levels of corruption. Suggestions that an NGO is linked to bribery in any way can be damaging to its reputation and undermine the trust and support of beneficiaries, partners, the wider public and donors. Public concern about the impact of bribery and corruption is a critical issue in building broad public support for aid and development.¹

LKRO fully subscribe to the NGOs Principles outlined in the multi-agencies document providing Guidance to NGOs on managing bribery and corruption.

The purpose of this Guide is to provide policy guidance on procedures, processes and timelines related to overall management of fraud, corruption, bribe and loss including: reporting, investigation, closure of alleged fraud, bribe and loss cases and sharing of learning within the organization. This Policy Guide will also help LKRO ensure that it is complying with legal requirements.

Specifically, this Policy Guide provides:

- i. A clear definition of what we mean by “fraud” and “bribery”
- ii. A definitive statement to staff forbidding fraudulent and bribery behaviour and activities in all its forms
- iii. A summary to staff of their duty for identifying organizational exposure to fraudulent or bribery conduct and activities and for establishing controls and procedures for preventing such fraudulent or bribery activity and/or detecting such fraudulent or bribery activity when it occurs
- iv. Guidance to employees regarding specific action which should be taken where they suspect

- any fraudulent or bribery activity
- v. Clear guidance as to responsibility for conducting investigations into fraud or bribe or loss related activities
- vi. Protection to employees in circumstances where they may be victimized as a consequence of whistle-blowing, reporting, or being a witness to, fraudulent, bribery or loss activities.

This Policy Guide should be read in conjunction with:

- a. Relevant Human Resource Policies
- b. Finance Policies & Procedures in relation to Reporting Loss, Fraud, Bribery and Theft.
- c. UK Bribery Act²

This document will be reviewed periodically in order to determine whether it remains useful, relevant and effective.

3. **Definitions**

LKRO defines fraud as "The theft or misuse of LKRO's funds, property, assets or other resources, by an employee or a third party, which may or may not also involve misstatement of financial documents or records to conceal the theft or misuse.

For example, fraud includes but is not limited to the following:

- a. Theft of funds or any other LKRO property or assets
- b. Falsification of costs or expenses
- c. Forgery or alteration of documents
- d. Destruction or removal of records
- e. Inappropriate personal use of LKRO's assets and property
- f. Employees seeking or accepting cash, gifts or other benefits from third parties in exchange for preferment of the third parties in their dealings with LKRO.
- g. Blackmail or extortion
- h. Paying of excessive prices or fees to third parties with the aim of personal gain.

Bribery is defined as:

"The offering, promising, giving, accepting or soliciting of money, a gift or other advantage as an inducement to do something that is illegal or a breach of trust in the course of carrying out LKRO's activities".

A bribe can take many forms and be of any size. Where the offer or receipt is intended for an employee's family or friends, or when bribery takes place through third parties, it is still considered to be a bribe.

The following are some simple examples of bribery (please note that this is not an exhaustive list):

- a. A potential supplier offers LKRO staff some money or a gift, in order to influence a tendering process.

- b. A job applicant offers to pay to increase his/her chance of being offered employment.
- c. LKRO staff offer a gift, (e.g. excessive hospitality connected to a training course), to a local government planner, in return for approval of a development application.
- d. A customs official asks for an unofficial payment or gift to release imported goods.
- e. A government official asks for payment in order to secure LKRO's NGO registration.

4. **LKRO Policy**

Fraud, corruption and bribery in all their forms are wrong and unacceptable and constitute a gross misconduct. LKRO policy is guided by the principle of zero tolerance to any type, form, nature, material value of fraud or bribery. This is because where fraud or bribery occurs:

- It is not just a loss to LKRO, but ultimately to our beneficiaries, people living in extreme poverty and the neediest of the world's citizens
- It may have a major impact on our reputation and credibility, on donor confidence in LKRO and therefore again on our beneficiaries.

LKRO's objective is that fraud and bribery are eliminated from its activities. Any indications of fraud or bribery will be rigorously investigated and dealt with in a firm and controlled way.

5. **Responsibilities of Employees**

5.1 **Managers**

It is the responsibility of all level of managers to be familiar with the types of fraud and bribery that might occur in their area, be alert for any indication of fraud and bribery or mal practice and improper activity, and be vigilant and maintain controls to pre-empt such occurrences.

Managers are required to ensure that all staff under their control be given a copy of this policy in a language (whether English, Dari or Pashto) they can understand, and acknowledge its receipt.

Managers should also ensure that staff be encouraged to act as a *whistle blower*³ and report suspected issues of fraud and that confidentiality of reporting and protection of *whistle blower* is strictly ensured.

Managers here refer to all level of reporting officers including, but not limited to, Directorate members, programme sectoral / technical team leaders, project leaders / managers / coordinators, provincial programme managers, area coordinators, district programme coordinators.

5.2. **All Staff**

It is the responsibility of all employees to carry out their work in such a way as to prevent fraud, corruption or bribery occurring in the workplace. Employees must also be alert for occurrences of fraud, corruption or bribery, be aware that unusual transactions or behaviors could be indications of fraud, corruption or bribery, and report potential cases of fraud, corruption and bribery as outlined below.

Staff are encouraged to act as *whistle blower* to alert managers to alleged fraud or bribery situations.

6. Reporting Allegations of Fraud and Bribery

6.1 Reporting to the Managers

Employees are required to report issues of suspected or alleged fraud, corruption or bribery. Employees should report their suspicions as follows:

- a) Staff in districts, area offices, provinces and Kabul: To their immediate Line Manager, or directly either to Director (Programme Support Functions) or to the Managing Director
- b) Directorate members: To the Managing Director, except in circumstances of alleged involvement of Managing Director in the suspected fraud, in which case Directorate members to directly report to the Chair of Board of Trustees
- c) Managing Director: To the Chair of Board of Trustees, where the fraud is in excess of USD1,000.

6.2 Reporting through Official Helpline

If the circumstances are such that reporting a suspicion of an alleged fraud, corruption or bribery as above is inappropriate, or if the person to whom it is reported is unable to assist, the issue may be reported to the LKRO confidential helpline.

This helpline is monitored by the Director (Programme Support Functions) and can be accessed through email or phone.

6.3 What Employees Must Not Do

Employees who suspect fraud or bribery are advised not do any of the following:

- Contact the suspected individual(s) directly in an effort to determine facts, demand explanations or restitution
- Discuss the issue with anyone within LKRO other than the people listed above
- Discuss the issue with anyone outside of LKRO, except as required by law.

7. Management of Reported Allegations of Fraud, Corruption and Bribery

Any allegations of fraud, corruption or bribery will be taken seriously by LKRO. LKRO expects its managers to deal firmly and quickly with any reports of alleged fraud or bribery.

Managers receiving reports of alleged fraud or bribe must immediately notify the issue and take immediate actions as following:

- a) All managers: either to their immediate or over view manager (manager of their manager) or to

Director (Programme Support Functions).

- b) Directorate Members: To the Managing Director (except in circumstances of alleged involvement of Managing Director in the suspected fraud, in which case Directorate members to report to the Chair of Board of Trustees)
- c) Managing Directors: To the Chair of Board of Trustees where the fraud is in excess of USD1,000

The purpose of this prompt notification is to allow immediate management of the allegation of fraud, corruption or bribe.

In consultation with the persons notified, arrangements must be made for a quick but comprehensive investigation of the issue, which must be completed within maximum 5 working days, except in a case where an enquiry committee may have to travel to remote office location for investigation.

The following are authorized to manage investigation of alleged fraud, corruption and bribery cases:

- i. Within a Province: Provincial Programme Manager, except in circumstance where the PPM is allegedly involved in the reported case; in which situation Managing Director will appoint 2-member committee from the Directorate
- ii. At central level: Director (Programme Support Functions), except in circumstance where the Director (PSF) is allegedly involved in the reported case; in which situation Managing Director will appoint 2-member committee from the Directorate
- iii. In case of allegation of Managing Director's involvement in alleged fraud or bribery: Chair of Board of Trustees to nominate an enquiry committee consisting of 2 Trustees.

Investigations should be carried out either by appropriately experienced independent LKRO staff, or by independent third parties. A roster of trained 'investigators' will be developed by LKRO; staff especially trained to investigate alleged cases of fraud will be placed on this roster. An investigation is required to be done without regard to any person's relationship with LKRO, position or length of service.

The safeguards for reporting employees must be applied in all cases, as outlined in Section 8 of this Guide.

The conclusion of all fraud investigations must be documented. The responsible manager should forward the written report with conclusions and recommended actions to the persons requiring notification – see above – and agree on the appropriate action/s to be taken. The person(s) that initially reported the suspected allegations should be informed of the outcome of the investigation but this should be done only once the report and proposed course of action/s has/have been finalized.

8. Investigation

8.1 Detailed Investigation

Where an initial report of potential Bribery, Corruption or Fraud has been made under the procedure described above, the delegated staff in collaboration with Director Programme Support Functions will liaise with Legal counsel (as appropriate) to determine whether the report warrants a detailed

investigation. Where a detailed investigation is appropriate, an investigating officer or team possessing the necessary skills will conduct the detailed investigation under the direction Director Programme Support Functions.

Where necessary, Legal Counsel will advise on the conduct of the investigation to ensure that due process is followed in conducting the case and, on the conclusion of the investigation, including any actions to be taken as a consequence of the findings.

(i) Security of Evidence

The person delegated with the responsibility for the investigation, is responsible for ensuring that evidence, physical assets and records, which may be used in subsequent investigations, are secured at an early stage of the investigation.

Personnel being investigated for alleged Bribery, Corruption or Fraud may be denied access to LKRO premises and information systems, and if they are LKRO's employees they might be sent on forced leave.

The details of investigations performed and documentation produced are to be managed and retained in accordance with LKRO data protection system.

(ii) Personal Security

Consideration is given to the need to provide security and protection, for the person reporting the suspicion or incident of Bribery, Corruption or Fraud, members of the investigating team and employees closely associated with the gathering of evidence.

Retaliation against anyone for raising a legitimate concern or assisting to address Bribery, Corruption, Fraud or other unethical matter is not tolerated by LKRO. Retaliation amounts to gross misconduct and is grounds for serious management action to be taken against the guilty party, this includes dismissal from employment. See section 9 below.

8.2 Enforcement and Accountability

Any disciplinary action to be taken in connection with any alleged or actual incident of Bribery, Corruption or Fraud will be established by the investigating team in conjunction with the Managing Director, Director Programme Support Functions and where necessary Legal Counsel.

8.3 Corrective Actions

(i) Disclosure of the Results and Root Cause Remedies

A report will be prepared for each investigation performed and will include identification of root causes of the incident/violation (control gaps/deficiencies, collusion, systems penetration or sabotage etc). Following thorough consideration and analysis of these findings, remedial actions are taken to address the identified deficiencies/gaps including but not limited to amending existing or implementing

new policy guidelines, procedures and controls, improving existing or implementing new systems, increasing assurance activities, and making changes to the systems or processes to address identified causes.

For completeness, the Director Programme Support Functions will be responsible for tabling a report covering all incidents of common theft and other misappropriations uncovered and investigated by local operational staff. This will take the form of a misappropriation report tabled half yearly at the Directorate meeting. See section 9 below.

(ii) Communication to Employees

Appropriately limited information in relation to incidents of Bribery, Corruption or Fraud committed and action taken may be communicated to employees, for example where this is necessary to emphasize that incidents of unethical behavior will not be tolerated by LKRO.

(iii) Loss/damage Recovery Actions

Based on the results of the investigation performed, all actions possible will be taken, with external assistance where required, to recover LKRO's funds or assets misappropriated.

Based on the results of the investigation, consideration is given to the possibility of legal proceedings against the offending parties to obtain the appropriate remedies.

9. Reporting of Fraud, Corruption and Bribery Cases

Director (Programme Support Functions) will generate a Fraud, Bribery, Corruption and Loss report each quarter for the Managing Director on. This report will be based on information received from provinces and Head Office. The quarterly report will give LKRO a mechanism whereby it will be able to track the status of reported allegation of fraud, corruption, bribery and loss on a regular basis and take actions where required, as well as be able to share learning and experiences within the organization.

9.1 Reporting Format

The format of the report has three main parts:

- Incidents reported during the month
- Status reporting on cases previously reported, which are still open and required action for conclusion / closing
- Cases closed since last report.

9.2 Classification of Cases

Cases are classified into five categories:

- Staff cash
- Staff procurement

- Staff Assets
- Partners
- Third Parties

10. **Safeguards for Employees**

Issues reported to line and/or overview management and to the helpline will be investigated with the following safeguards.

10.1 Harassment or Victimization

LKRO recognizes that the decision to report allegation of fraud or bribe or loss can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. LKRO in accordance with its Human Resource Policies will not tolerate harassment or victimisation and will take all practical steps to protect those who raise an issue in good faith.

10.2 Confidentiality

LKRO will endeavor to protect an individual's identity when he or she raises an issue and does not want their name to be disclosed. It should be understood, however, that an investigation of any malpractice may need to identify the source of the information and a statement by the individual may be required as part of the evidence. LKRO will protect the identity of the staff member in such situations.

10.3 Anonymous Allegations

LKRO discourages anonymous allegations. Issues expressed anonymously will be considered at the discretion of LKRO. In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised
- The credibility of the allegations and the supporting facts
- The likelihood of confirming the allegation from attributable sources

10.4 False Allegations

If an allegation is made in good faith, but it is not confirmed by an investigation, LKRO guarantees that no action will be taken against the complainant. If, however, individuals make malicious or vexatious allegations, disciplinary action will be considered against an individual making the allegation.

11. **Actions Arising from Fraud or Bribery Investigations**

11.1 Disciplinary Procedures

Persons who are judged guilty of fraud, corruption or bribery have committed gross misconduct and will be dealt with in accordance with the HR Policy on Disciplinary Action. Proven allegations of fraud

may result in dismissal from LKRO's employment.

Where appropriate, LKRO will refer significant fraud, corruption or bribery to the local law enforcement agencies with a view to initiating criminal prosecution. Due consideration will be given to the local context and the consequences in terms of abuse of human rights of initiating criminal prosecution against the individuals involved. In every case, the final decision whether or not to prosecute will be taken by:

- Managing Director in consultation with the Chair of Board of Trustees
- Chair of Board of Trustees where allegations may involve Managing Director

11.2 Changes to Systems of Controls

The fraud, corruption and bribery investigation is likely to highlight where there has been a failure of supervision and / or a breakdown or absence of management control; the course of action required to improve systems will be documented in the investigation report and implemented when the report is finalized.

11.3 Recovery of Losses

Where LKRO has suffered loss, full restitution will be sought of any benefit or advantage obtained and the recovery of costs will be sought from individual(s) and/or organisations responsible for the loss.

If the individual and/or organisation cannot or will not make good the loss, consideration will be given to taking civil legal action to recover losses. This is in addition to any criminal proceedings which may result.

12. Effective Date

This Policy governing management of financial mal practices specifically including Fraud, Corruption, Bribery and Loss will come into effect from 01th Dec 2010.

13. Review of this Policy

In the interests of maintaining best practice, the contents of this Policy Guide will be reviewed by a committee to be appointed by the Managing Director every three years, or earlier if circumstances change and warrant an earlier review.

14. Approving Authority

This Policy Guide is approved by the Managing Director of LKRO on the 01th day of December 2010.

APPENDIX – 4⁴

THE NGO PRINCIPLES

1. The NGO commits to a policy of zero-tolerance of bribery in any form.

2. The NGO will implement policies to counter bribery, including:

2.1 High-level commitment

The Board of Trustees and senior management should commit to and oversee the implementation of a policy of zero-tolerance, recognising that bribery is contrary to fundamental values of integrity, transparency and accountability and undermines organisational effectiveness.

2.2 Risk assessment

Bribery risk assessment should form part of each organisation's overall and ongoing risk management process.

2.3 Devise and implement robust anti-bribery procedures

Organisations should devise, implement and maintain robust procedures, which are proportionate to the risks and to the size, resources and complexity of the organisation.

2.4 Due-diligence assessment of partners, agents and contractors

The organisation should assess the bribery risk associated with entering into partnership or contracting arrangements with other entities and then carry out periodic due diligence based on that risk assessment. Partnership or contractual arrangements should check that these organisations have policies and procedures which are consistent with these Principles and Guidance.

2.5 Dissemination and communication

The organisation should establish effective internal and external communication of its policy and procedures. The organisation should undertake training and awareness programmes to ensure staff, agents and partners are aware of the potential risks, how bribery might affect them, what they should do if they are offered a bribe, and the consequences should they be found to have made or received a bribe.

2.6 Monitoring and evaluation

Implementation of anti-bribery procedures should be monitored as part of overall risk management and internal control processes. Periodic reviews of anti-bribery procedures should be made and reported as part of governance and accountability processes. Organisations that are exposed to higher risks should consider external verification and assurance of their anti- bribery procedures.

2.7 Collective action

The organisation should commit to sharing information and strengthening collective action to prevent bribery.

GLOSSARY OF TERMS AND DEFINITIONS

Bribery - the offering, promising, giving, accepting or soliciting of money, gifts or other advantage as an inducement to do something that is illegal or a breach of trust in the course of carrying out an organisation's activities.

Corruption – the abuse of entrusted power for private gain.

Extortion - the unlawful use of one's position or office to obtain money through coercion or threats. One example would be when customs officials request undue 'customs duties' from importers as a condition to clear their goods.

Facilitation payments - These are bribes and are usually small unofficial payments made to secure or expedite the performance of a routine or necessary action to which the payer of the facilitation payment has legal or other entitlement.

Gifts and hospitality – these can range from small gifts (such as diaries) to expensive hospitality (tickets for major events, holidays etc). Extravagant gifts and hospitality may be used to disguise bribes that are intended to induce improper behaviour.

Solicitation – the act of a person asking, ordering or enticing someone else to commit bribery or another crime.

Whistleblowing – the sounding of an alarm by an employee, director or external person to express concerns about or to attempt to reveal neglect or abuses within the activities of a company.

APPENDIX – 6

EXAMPLES AND POTENTIAL INDICATORS OF CORRUPTION

- Abnormal cash payments
- Pressure exerted for payments to be made urgently or ahead of schedule
- Payments being made through 3rd party (e.g. goods or services supplied to region/province 'A' but payment is being made, usually to another company in region/province 'B')
- Abnormally high commission percentage being paid to a particular agency. This may be split into two accounts for the same agent, often in different jurisdictions
- Private meetings with public contractors or companies hoping to tender for contracts
- Lavish gifts being received
- Individual never takes time off even if ill, or holidays, or insists on dealing with specific contractors him/herself
- Making unexpected or illogical decisions accepting projects or contracts

- Unusually smooth process of cases where individual does not have the expected level of knowledge or expertise
- Abusing decision process or delegated powers in specific cases
- Agreeing contracts not favourable to the organisation either with terms or time period
- Unexplained preference for certain contractors during tendering period
- Avoidance of independent checks on tendering or contracting processes
- Raising barriers around specific roles or departments which are key in the tendering/contracting process
- Bypassing normal tendering/contractors procedure
- Invoices being agreed in excess of contract without reasonable cause
- Missing documents or records regarding meetings or decisions
- NGOs procedures or guidelines not being followed
- The payment of, or making funds available for, high value expenses or school fees etc on behalf of others.